

Procurement of Health and Human Services  
Chapter 103F, HRS

**Evaluating Proposals**  
**Received in Response to an RFP for Health and Human Services**

<b>I.</b>	<p><b>Receipt of Proposals ~ Register of Proposals</b></p> <p><b>Receipt of Proposals</b> When you receive the proposals they should be date and time stamped (if possible) and placed in a secure place. Do not examine the proposals for evaluation purposes until the proposal submittal deadline.</p> <p><b>Register of Proposals</b> Develop a 'Register of Proposals' that includes the name of each applicant and the RFP title and ID number. It must be available to the public within a reasonable time period (10 days is reasonable, one month is not.)</p>
<b>II.</b>	<p><b>Basic Requirements ~ Is it All There?</b></p> <p><b>Are all the mandatory submittals there?</b></p> <p><b>Registration</b> The purchasing agency must verify the applicant is registered with the State Procurement Office and in good standing with the DCCA. You can check the List of Registered Private Providers on the SPO website at <a href="http://www.spo.hawaii.gov">www.spo.hawaii.gov</a>, click on <i>Procurement of Health and Human Services</i>, click on <i>Lists and Databases</i> and <i>List of Registered Private Providers for Use With the Competitive Method of Procurement</i>.</p> <ul style="list-style-type: none"><li>• If the applicant is listed as <b>not</b> being in good standing, it is possible the organization has come into good standing since the last time SPO checked with the DCCA. (The SPO checks about once a month or as needed). You may go directly to the DCCA website and check at: <a href="http://www.ehawaii.gov/dcca/cogs/exe/cog.cgi">http://www.ehawaii.gov/dcca/cogs/exe/cog.cgi</a></li><li>• (If they are in good standing, we would appreciate your letting us know by e-mailing <a href="mailto:corinne.y.higa@hawaii.gov">corinne.y.higa@hawaii.gov</a> so that we may update our list.)</li><li>• If they are not in good standing, the purchasing agency should notify the applicant and give them an opportunity to straighten it out. Sometimes, the applicant may have submitted a report to the DCCA late and it has not been reviewed yet.</li></ul> <p><b>Oh My Goodness, They Forgot the Table of Contents/Budget Justification for Personnel/Title Page, etc.</b> <i>See Patent Error</i></p>

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<b>III.</b>	<p><b>Rejection of Proposals</b></p> <p>Basis for Rejection of proposals</p> <ol style="list-style-type: none"><li>(1) Failure to cooperate or deal in good faith;</li><li>(2) Inadequate accounting system;</li><li>(3) Late proposal (submitted after the proposal submittal deadline);</li><li>(4) Proposal not responsive;</li><li>(5) Applicant not responsible.</li></ol> <p>The basis for rejecting proposals should be “black or white.”</p> <p><i>Remember:</i> Mailed proposals must be postmarked by <i>United States mail</i> by the proposal submittal date. Deliveries by a courier service such as FedEx are considered as a hand delivery.</p>
<b>IV.</b>	<p><b>Evaluators &amp; Advisors</b></p> <p><b>Evaluators</b></p> <p>Who may evaluate proposals</p> <ol style="list-style-type: none"><li>(1) The procurement officer, or</li><li>(2) An evaluation committee of at least 2 <i>state employees</i> <i>selected by the head of the purchasing agency or procurement officer.</i></li></ol> <p>Note: Documentation of review committee members and any subsequent changes must be placed the procurement file.</p> <p><b>Advisors</b></p> <ul style="list-style-type: none"><li>• Non-state employees may serve as advisors but they may not represent or act on behalf of a state agency in any selection/award.</li><li>• Non-state employees may not serve as advisors if it would pose an actual or potential conflict of interest. (See below for examples of conflict of interest.)</li></ul> <p><b>Screen Evaluators and Advisors for Conflict of Interest/Potential Conflict of Interest</b></p> <p>Examples of conflict of interest/potential conflict of interest/appearance of conflict of interest:</p> <ol style="list-style-type: none"><li>(1) Own/or have a financial interest in the applicant.</li><li>(2) Have a close relative work for the applicant.</li><li>(3) Previously worked for the applicant.</li><li>(4) Supervisor/subordinate relationship among evaluators.</li></ol> <p><i>Note: If you have any questions as to whether there is a potential conflict of interest consult with your Deputy AG or the Ethics Commission.</i></p> <p><b>Training is Essential for Both Evaluators and Advisors</b></p> <ol style="list-style-type: none"><li>(1) Evaluation process</li><li>(2) Evaluation criteria and their relative priorities</li><li>(3) Confidentiality</li><li>(4) Conflict of interest/potential conflict of interest</li></ol>

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<b>V.</b>	<b>Access to Documents and Confidentiality</b>  All proposal contents are to be kept confidential until a contract/contracts is/are fully executed. Things to consider: <ul style="list-style-type: none"><li>• If information about proposal contents is compromised, it affects the ability of both parties to negotiate.</li><li>• Will advisors be able to take the proposals with them to review? Safeguards for confidentiality?</li><li>• Advise about discussions with spouses, friends or coworkers.</li></ul>
<b>VI.</b>	<b>Patent Errors-Correction of Errors Discovered After the Proposal Submittal Deadline</b>  Applicants have the responsibility of ensuring their proposals are free of errors. Before the submittal deadline, they may correct <i>anything</i> . After the submittal deadline, they may only correct <i>patent errors</i> . A patent error is an error in the proposal that is readily ascertainable by a reasonably knowledgeable person in the field of health and human services.  Any information that is not already in the proposal may not be submitted after the proposal submittal deadline.  Examples of patent errors: <ul style="list-style-type: none"><li>• arithmetical errors</li><li>• typographical errors</li><li>• transposition errors</li><li>• omitted signatures</li></ul> Provider must demonstrate that: <ul style="list-style-type: none"><li>• the proposed correction constitutes the information <i>intended</i> at the time the proposal was submitted, and not a modification of the proposal based on information received after the submittal deadline*; and</li><li>• the proposed correction is not contrary to the best interest of the purchasing agency or to the fair treatment of other applicants.</li></ul> <i>*Note:</i> To demonstrate the information was intended at the time the proposal was submitted, there should be evidence of such in the proposal.
<b>VII.</b>	<b>Scoring Proposals</b>  If using a committee, there are basically 2 ways evaluation can be scored: (1) Evaluators score separately and the scores are then tallied and averaged (2) The evaluation committee decides on scores as a group.

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<b>VIII.</b>	<p><b>Documents for Evaluation: What is Official and What is Unofficial</b></p> <p>If scoring is by averaging scores of individual evaluators, the evaluation sheet from each evaluator must become part of the procurement file and is accessible to the public after a contract is executed.</p> <p>If scoring is by developing a group score for each section/bullet, the group scores and comments must become part of the procurement file and are accessible to the public after a contract is executed.</p>
<b>IX.</b>	<p><b>Evaluation Process and Evaluation Criteria</b></p> <p><b>The Process</b></p> <ul style="list-style-type: none"><li>• The evaluation of proposals shall be based <i>solely</i> upon the evaluation criteria and their relative priorities as established in the request for proposals.</li><li>• It must be written and based on either written comments or a numerical rating system.</li><li>• After all of the proposals have been evaluated, the proposals shall be ranked from most advantageous to least advantageous, based on the evaluations each proposal received.</li></ul> <p><i>Note:</i> After execution of a contract or contracts, the written evaluations for all proposals received shall be made available for public inspection in the procurement file.</p> <p><b>The Criteria</b></p> <p><b><i>What you can do:</i></b></p> <ul style="list-style-type: none"><li>• Clarify evaluation criteria (based on the RFP)</li><li>• Use a scale (such as a Likert scale or ‘low-medium-high’, etc.) providing the relative weights for each section/question are not changed.</li><li>• Discuss as an evaluation committee on general rules about scoring. (For example: if using a scale, 1=the question/section was addressed poorly, 3=the question/section was mostly but not completely addressed, 5=the question/section was completely addressed.)</li></ul> <p><b><i>What you cannot do:</i></b></p> <ul style="list-style-type: none"><li>• You may not change anything that is in the RFP evaluation criteria. For example: If you did not assign points to the bullets under each section, you may not assign points that vary from bullet to bullet at the time of evaluation. The reason: this could have affected the manner in which applicants responded to the RFP.</li><li>• Evaluations shall not be based on race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, physical or mental disability, political affiliation of the applicant, or any other criterion prohibited by law, unless such criterion is permitted by law. (<i>Reference: §3-145-205(g), HAR</i>)</li></ul>

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<b>X.</b>	<p><b>Discussions with Applicants after Proposal Submittal Deadline</b></p> <p><b>Allowed Purposes</b></p> <ol style="list-style-type: none"><li>(1) Clarifying elements of the request for proposals or the proposal;</li><li>(2) Facilitating the refinement of proposals to produce the contract that will be most advantageous to the state in light of the evaluation criteria set forth in the request for proposals; or</li><li>(3) Negotiation with providers to arrive at a more advantageous set of proposals for the state to consider. (see <i>Final Revised Proposals</i>)</li></ol> <p>Purchasing agencies must establish procedures and schedules for conducting discussions that will insure the reasonably fair and equal treatment of all applicants. (<i>Reference 3-143-403(c)</i>)</p> <p>Procedures/schedules may include but are not limited to:</p> <ul style="list-style-type: none"><li>• Sufficient time to speak with all applicants.</li><li>• Format for discussions.</li><li>• Topics to be discussed.</li></ul>
<b>XI.</b>	<p><b>Modification or Cancellation of Request for Proposals</b></p> <p><b>Modification of RFP</b></p> <ul style="list-style-type: none"><li>• A purchasing agency may modify the Request for Proposals if the proposed modification does <b>not</b> constitute a material change in the nature of the request for proposals,</li><li>• A purchasing agency may issue a written addendum in accordance followed by a Request for Final Revised Proposals</li><li>• </li></ul> <p><b>Cancellation of RFP</b></p> <p>If a proposed modification does constitute a material change in the nature of the Request for Proposals, then the purchasing agency may cancel the request for proposals in accordance with §3-143-613, HAR, and a new Request for Proposals may be issued.</p> <p><b>Material change in the nature of a Request for Proposals</b> is one that would alter a reasonable applicant's decision not to have submitted a proposal.</p> <p><i>Note:</i> The definition of material change is relevant to the section.</p>

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<b>XII.</b>	<p><b>Final Revised Proposals</b></p> <p><b>Purpose:</b> To allow fair and equal opportunity for all applicants to respond to the matters raised at the discussions and make a best and final offer.</p> <p><b>Procedure</b></p> <ol style="list-style-type: none"><li>(1) Issue notice to all applicants that includes: 1) A request for final revised proposals; 2) The deadline for submission of final revised proposals; 3) The procedure for submitting final revised proposals if that procedure is different from submitting the original proposals; 4) Instructions that only the section or sections of each applicant's last proposal that are amended should be submitted in the final revised proposal; and 5) A statement that if an applicant does not submit a final revised proposal, then the last proposal submitted by an applicant shall be deemed to be the applicant's final revised proposal.</li><li>(2) Unless a different method is specified, final revised proposals shall be submitted to purchasing agencies in the manner provided for the original proposals</li><li>(3) After revised final proposals are received, final evaluations will be conducted, and an award or awards made, unless the purchasing agency makes a written determination that it is in the state's best interest to conduct additional discussions or issue a further addendum to the request for proposals</li></ol>
<b>XIII.</b>	<p><b>Partial Rejection of a Proposal</b></p> <p>A purchasing agency may partially reject any proposal in order to request modifications to the proposal that are in the best interests of the state.</p> <p><b>Conditions</b></p> <ol style="list-style-type: none"><li>(1) The proposal has been determined under the evaluation process to be the most advantageous; and</li><li>(2) The modifications proposed by the purchasing agency will not render the proposal or proposals less advantageous.</li></ol> <p><b>Procedure</b></p> <ol style="list-style-type: none"><li>(1) The purchasing agency gives the applicant that submitted the proposal a notice of partial rejection containing the following information: (1) Identification of the proposal; and (2) A statement of the proposed modifications to the proposal.</li><li>(2) If acceptable to the applicant, the applicant approves modifications proposed in the notice in writing.</li><li>(3) If the modifications as proposed are not acceptable to the applicant, then the applicant may make a counter-proposal to the purchasing agency and negotiate a set of modifications mutually acceptable to both parties.</li><li>(4) Once proposed modifications are approved by both the purchasing agency and the applicant, they shall be incorporated into the applicant's proposal in a manner mutually acceptable to both parties.</li></ol>

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<b>XIV.</b>	<b>Notice of Award – Statement of Findings and Decision</b> <ul style="list-style-type: none"><li>• Sample format is on the SPO website</li><li>• Should be clear, concise and objective.</li><li>• Should contain enough information so that the applicant who wasn't awarded knows where his proposal was lacking.</li><li>• Must include a copy of the evaluation worksheet of the applicant.</li></ul>
<b>XV.</b>	<b>Contract Negotiations – Discussions with Applicants after Award and Prior to Execution of a Contract and Proposal Modifications</b> <p><b>Purpose:</b> To negotiate a more advantageous contract for the state</p> <p>Discussions are limited to:</p> <ol style="list-style-type: none"><li>(1) Contractual terms and conditions not specifically addressed in the request for proposals that would not constitute a material change* to the proposals; and</li><li>(2) Contractual terms and conditions which are substantially the same or that do not constitute a material change to the proposal.</li></ol> <p><b>*Material change to a proposal</b> is one that would adversely affect how advantageously the proposal was rated during the evaluation process.</p> <p><i>Note:</i> The definition of material change to a proposal is different than the definition of material change to a Request for Proposals.</p> <p><b>Proposal Modifications</b></p> <p>Before the execution of a contract, the purchasing agency may seek to make final modifications to a proposal through discussion, or through a partial rejection.</p>

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<b>XVI.</b>	<p><b>Inadequate Response to an RFP</b></p> <p>An inadequate response to a request for proposals exists when:</p> <ol style="list-style-type: none"><li>(1) There is only one proposal that is both responsive to the request for proposals and submitted by a responsible provider;</li><li>(2) All proposals that were received are either not responsive to the request for proposals, or were not submitted by responsible providers; or</li><li>(3) There are no responses at all to the request for proposals.</li></ol> <p><b>Single Proposal</b></p> <ol style="list-style-type: none"><li>(1) Cost analysis. The purchasing agency may require a cost analysis to validate the proposal's cost factors including cost or pricing data.</li><li>(2) Award. The purchasing agency may make an award to the single applicant if :<ol style="list-style-type: none"><li>(A) The proposal submitted is responsive to the request for proposals, and its terms are reasonable and satisfactory to the purchasing agency; and</li><li>(B) The required twenty-one day period from the initial notice of the request for proposals to the submittal deadline provided other prospective applicants with a reasonable opportunity to respond.</li></ol></li><li>(3) Rejection. The purchasing agency may reject the proposal and either issue a new request for proposals, or cancel the procurement altogether.</li><li>(4) Direct negotiations. The purchasing agency may negotiate directly with the applicant upon a written determination by the purchasing agency that:<ol style="list-style-type: none"><li>(A) The need for the service continues;</li><li>(B) The single proposal is not satisfactory and reasonable; and</li><li>(C) There is no time to issue a new request for proposals or resolicitation would likely be futile.</li></ol></li><li>(5) Restrictive purchase of services. The purchasing agency may make a restrictive purchase of service by following the procedures established under chapter 3-144.</li></ol> <p><b>No Proposals Received or No Responsive Proposals Received Submitted by a Responsible Applicant</b></p> <ol style="list-style-type: none"><li>(1) Reissue the request for proposals.</li><li>(2) Alternate service delivery. Issue a new request for proposals.</li><li>(3) Cancellation of the procurement altogether.</li><li>(4) Selection without competition upon making a written determination that it is neither practicable nor advantageous to issue a new request for proposals based on a consideration of the following factors:<ul style="list-style-type: none"><li>• Competition in the marketplace;</li><li>• Whether the additional potential cost of preparing, soliciting, and evaluating competitive purchase of service proposals is expected to exceed the benefits normally associated with the solicitation; and</li><li>• Any other factors that the purchasing agency deems relevant to this determination.</li></ul></li><li>(5) Restrictive purchase of services.</li></ol>
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